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# TOO GOOD TO BE TRUE....

A Column on Consumer Issues  
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Consumer Protection and Antitrust Division

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## RIGHT TO CANCEL CERTAIN SALES CONTRACTS

Questionable telemarketers often use a tool of intimidation to make it difficult for consumers to back out of a business transaction. They tape record their business transactions in case you complain or try to back out of the deal. The telemarketers claim your recorded voice agreeing to the purchase over the phone validates the contract. This simply is not true.

In North Dakota, when a consumer purchases goods or services other than at a normal place of business, the seller must provide the consumer with a **written contract**. This contract must be signed and dated by the consumer and returned to the seller or the sales transaction is not valid.

Magazine telemarketers, in particular, are fond of using tape recordings. The ploy typically works like this: the seller calls you at home and pitches what sounds like a great deal on some magazine subscriptions. At this point, nothing is being recorded, so the seller is free to make wild oral promises or representations that can be recanted later. When you are asked to agree to the deal, however, the seller asks if the conversation can be recorded. Thus, the seller has a tape recording of you agreeing to buy the magazine package, but not the entire conversation or important details.

A few weeks pass, and you get a confirmation notice from the company in the mail. You find out that you will have to pay \$27.64 per month, for several years. You call the magazine marketer to cancel your contract, but the seller claims you cannot back out because they have your voice on tape accepting the offer. Are you stuck with a \$27.64 monthly bill for some magazine you probably will not read? No way! The "contract" is unenforceable against you because no written contract was signed.

The North Dakota home solicitation sales law gives consumers a powerful right to cancel sales transactions of more than \$25 that are made away from a permanent place of business, even if a written contract is signed. You have three business days to cancel any sales contract made under such conditions. It applies to purchases made at a trade show, purchases from a door-to-door salesperson, or merchandise and services bought from a salesperson operating temporarily out of a motel room. This law also applies to sales made by telephone, in which you purchase merchandise using your credit card, when the business contacts you. Magazine subscription sales are a good example of this.

The seller must tell you **orally** and **in writing** about your three-day right to cancel. If the seller does not do this, the deal is voidable, even after three days.

You must give written notice to the seller that you are canceling the transactions. This notice should be sent by certified mail, return receipt requested, to document that it was made within the cancellation period.

People 65 years and older have even more protection. Seniors who are sold a product away from a permanent place of business have 15 business days to cancel any purchase more than \$50.

Other areas where the Office of Attorney General's Consumer Protection Division receives large volumes of calls with potential violations of the three-day right to cancel are sales of vacation packages and credit card protection plans. If you have problems canceling any sales transactions made over the telephone or during a visit from a door-to-door salesperson, contact the Consumer Protection Division without delay.

*The Attorney General's Consumer Protection Division investigates allegations of fraud in the marketplace. Investigators also mediate individual complaints against businesses. If you have a consumer problem or question, call the Consumer Protection Division at 328-3404, toll-free at 1-800-472-2600, or 1-800-366-6888 (w/TTY). This article and other consumer information is located on our website at [www.ag.nd.gov](http://www.ag.nd.gov).*

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